

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 86-298471
filed June 3, 2015 for the mark **BE-IMMUNE**
Published in the *Official Gazette* of November 11, 2014

CLASADO INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.: 91221006
	:	
EPITO GENESIS, INC.,	:	
	:	
Applicant.	:	
	:	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, EPITO GENESIS, INC. does hereby Answer the Notice of Opposition filed on March 11, 2015 by CLASADO INC., and against trademark, Application Serial No. 86-298471 filed June 3, 2015, and published in the Official Gazette of November 11, 2014.

Applicant pleads and avers as follows:

Applicant denies that Opposer will be damaged by the registration of Application Serial No. 86-298471 for the mark **BE-IMMUNE** or that Opposer is entitled to any relief requested in the Notice of Opposition. Moreover that the Application Serial No.: 86-298469 which appears on the face of Opposers' Notice of Opposition is in no way associated with the mark BE-IMMUNE.



1. In Answering paragraph 1 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

2. In Answering paragraph 2 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

3. In Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

4. In Answering paragraph 4 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

5. In Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

6. In Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies such allegations.

7. In Answering paragraph 7 of the Notice of Opposition, Applicant does admit in part and does deny in part the allegations set forth therein. Applicant admits that they intend to apply

the published mark, **BE-IMMUNE**, to nutraceuticals for boosting the immune system, dietary supplement, pharmaceutical preparations for treating and preventing infectious diseases, cancer, allergies and autoimmune diseases.

As to the allegations of being identical and/or highly similar to the goods on which Opposer has used its mark BIMUNO & Design in U.S. commerce and the goods identified in Class 5 in Opposer's Reg. No. 3,376,147, Applicant lacks sufficient knowledge or information to form a belief as to those allegations and accordingly denies such allegations.

Applicant denies the remaining allegations as set forth ¶7.

8. Answering paragraph 8 of the Notice of Opposition, Applicant hereby denies the allegations as set forth therein.

9. In Answering paragraph 9 of the Notice of Opposition, Applicant hereby denies the allegations as set forth therein.

AFFIRMATIVE DEFENSES

Applicant asserts that the following affirmative defenses bar Opposers' requested relief in its Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

One or more of Opposers' claims fail to state a claim upon which relief may be granted. Applicant is filing a Motion to Dismiss concurrently with this Answer.

SECOND AFFIRMATIVE DEFENSE

One or more of Opposers' claims are barred by the equitable defenses of laches, acquiescence, waiver, estoppel and/or fraud.

THIRD AFFIRMATIVE DEFENSE

Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

DATED: May 8, 2015

By:

A handwritten signature in cursive script that reads "Shore Padrao CEO". The signature is written in dark ink and is positioned above the printed name and title.

EPITO GENESIS, INC.

ATL Building Room 101

Storrs, CT 06268

Attn: Michael Vajdy

Shore Padrao

Telephone: (860) 477-0241

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition was served on Opposer's counsel via first class mail, postage prepaid, in an envelope addressed to Opposer's counsel as follows:

KIRSCHSTEIN, ISRAEL,
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(212) 697-3750

DATED: May 8, 2015

By:


Shore Padrah

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